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FACSIMILE COVER SHEET

DATE: FEBRUARY 27, 2006

NUMBER OF PAGES (INCLUDING
THIS TRANSMITTAL COVER SHEET): 11

OUR REFERENCE: 211352

FROM: JOHN KILYK, JR./KAS
REGISTRATION NO. 30,763

DIRECT LINE: (312) 616-5665

TO: COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

ATTN: ERNEST C. WHITE, *LIE*
DECISION AND CERTIFICATE OF CORRECTION
BRANCH OF THE PATENT ISSUE DIVISION

FACSIMILE NUMBER: (571) 273-8300

IN RE APPLN. OF: Sogabe et al.
PATENT NO. RE38,687 E
ISSUED: January 11, 2005

ATTORNEY DOCKET: 211352

ATTACHED PLEASE FIND THE FOLLOWING DOCUMENTS:

- Request for Reconsideration for Certificate of Correction for Applicants' Error (2 pages in duplicate)
- Copy of Declaration Under 37 CFR 1.132 (2 pages)
- Copy of Supplemental Declaration Under 37 CFR 1.175 (2 pages)
- Certificate of Correction (1 page in duplicate)

A confirmation copy of the transmitted document will:

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FEB 27 2006

PATENT
Attorney Docket No. 211352
Client Reference No. 20462-CPA-RI-RCE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number RE38,687 E
Issued: January 11, 2005
Name of Patentee: Sogabe et al.
Title of Invention: CREATINE AMIDINOHYDROLASE,
PRODUCTION THEREOF AND USE THEREOF

REQUEST FOR RECONSIDERATION OF DECISION
CONCERNING REQUEST FOR CERTIFICATE OF CORRECTION
OF PATENT FOR APPLICANTS' MISTAKE (37 CFR 1.323)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Ernest C. White, *LIE*
Decision and Certificate of Correction
Branch of the Patent Issue Division

Dear Sir:

This is a request for reconsideration of a decision denying, in part, Applicants' request for a Certificate of Correction to correct an error found in the above-identified patent. This reconsideration request is in response to the Communication from the Decisions & Certificates of Correction Branch dated January 11, 2006, regarding the partial denial of a Certificate of Correction, as well as in accordance with the recent telephone conversation with Examiner Ernest C. White at the Decision & Certificate of Correction Branch.

Applicants request that a Certificate of Correction be issued to correct the typographical error in the nucleotide sequence of SEQ ID NO: 2 of the Sequence Listing, which error was inadvertent and occurred in good faith. The deduced amino acid sequence set forth in SEQ ID NO: 1 (which also appears in SEQ ID NO: 2) correctly sets forth the amino acid sequence corresponding to the correct nucleotide sequence. Additionally, as set forth in the "Declaration Under 37 C.F.R. § 1.132 of Atsushi Sogabe" which was submitted in divisional U.S. Patent Application No. 10/807,228, the correct nucleotide sequence that encodes SEQ ID NO: 1 could be readily sequenced by one of ordinary skill in the art as of 1996 (the earliest priority date of U.S. Patent RE38,687 E) from the source material of the amidinohydrolase gene derived from *Alcaligenes faecalis* TE3581, which was deposited under accession number FERM P-14237 (see, e.g., column 4, lines 7-10, of U.S. Patent RE38,687 E). Thus, correction of the

Patent No. RE38,687 E
Issued: January 11, 2005
Patentee: Sogabe et al.


typographical error in SEQ ID NO: 2 of the Sequence Listing would not introduce new matter, change the scope of the specification, or require reexamination.

Please note that the error in SEQ ID NO: 2 of the Sequence Listing was corrected and accepted by the Examiner in divisional U.S. Patent Application No. 10/807,228. For convenience, attached are copies of the "Declaration Under 37 C.F.R. § 1.132 of Atsushi Sogabe" and "Supplemental Declaration for Reissue Patent Application to Correct Errors' Statement (37 C.F.R. § 1.175)" submitted in the divisional application regarding the aforementioned typographical error.

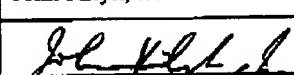
Accordingly, attached hereto is a Certificate of Correction, in duplicate, which indicates the requested correction.

The \$100.00 fee as required by 37 CFR 1.20(a) was previously charged to Deposit Account No. 12-1216 on December 6, 2005. The Commissioner is hereby authorized to charge any additional fee that may be required to Deposit Account No. 12-1216. A duplicate of this communication is enclosed for that purpose.

Respectfully submitted,


John Kilyk, Jr., Reg. No. 30,763
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

Date: February 27, 2006

| MAILING/TRANSMISSION CERTIFICATE UNDER 37 CFR 1.8 OR 1.10 | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|------|-------------------|
| I hereby certify that this document and all accompanying documents are, on the date indicated below, being <input checked="" type="checkbox"/> facsimile transmitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Facsimile Number 571-273-8300 | | | |
| Name (Print/Type) | John Kilyk, Jr. | | |
| Signature |  | Date | February 27, 2006 |

FEB 27 2006

PATENT
Attorney Docket No. 211352
Client Reference No. 20462-CPA-RI-RCE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number RE38,687 E
Issued: January 11, 2005
Name of Patentee: Sogabe et al.
Title of Invention: CREATINE AMIDINOHYDROLASE,
PRODUCTION THEREOF AND USE THEREOF

REQUEST FOR RECONSIDERATION OF DECISION
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OF PATENT FOR APPLICANTS' MISTAKE (37 CFR 1.323)

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Branch of the Patent Issue Division

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Patent No. RE38,687 E
Issued: January 11, 2005
Patentee: Sogabe et al.

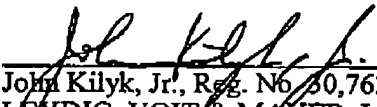
typographical error in SEQ ID NO: 2 of the Sequence Listing would not introduce new matter, change the scope of the specification, or require reexamination.

Please note that the error in SEQ ID NO: 2 of the Sequence Listing was corrected and accepted by the Examiner in divisional U.S. Patent Application No. 10/807,228. For convenience, attached are copies of the "Declaration Under 37 C.F.R. § 1.132 of Atsushi Sogabe" and "Supplemental Declaration for Reissue Patent Application to Correct Errors' Statement (37 C.F.R. § 1.175)" submitted in the divisional application regarding the aforementioned typographical error.


Accordingly, attached hereto is a Certificate of Correction, in duplicate, which indicates the requested correction.

The \$100.00 fee as required by 37 CFR 1.20(a) was previously charged to Deposit Account No. 12-1216 on December 6, 2005. The Commissioner is hereby authorized to charge any additional fee that may be required to Deposit Account No. 12-1216. A duplicate of this communication is enclosed for that purpose.

Respectfully submitted,


John Kilyk, Jr., Reg. No. 30,763
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(312) 616-5600 (telephone)
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Date: February 27, 2006

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| I hereby certify that this document and all accompanying documents are, on the date indicated below, being <input checked="" type="checkbox"/> facsimile transmitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Facsimile Number 571-273-8300 | | | |
| Name (Print/Type) | John Kilyk, Jr. | | |
| Signature |  | Date | February 27, 2006 |

PATENT
Attorney Docket No. 226749
Client Reference: 20462-CPA-RI-RCE-DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Sogabe et al.

Application No. 10/807,228

Art Unit: 1652

Filed: March 23, 2004

Examiner: E. Slobodyansky

For: CREATINE AMIDINOHYDROLASE,
PRODUCTION THEREOF AND USE THEREOF

COPY

DECLARATION UNDER 37 C.F.R. § 1.132 OF ATSUSHI SOGABE

I, Atsushi Sogabe, do hereby declare:

1 I am a co-inventor of the subject matter disclosed and claimed in the above-identified patent application.

2 The above-identified patent application identifies SEQ ID NO: 2 as the nucleotide sequence of a wild-type creatine amidinohydrolase gene. The amino acid sequence encoded by the gene is set forth in SEQ ID NO: 1.

3 The above-identified patent application contains a typographical error in the nucleotide sequence of SEQ ID NO: 2. Specifically, nucleotide residue 435 of SEQ ID NO: 2 should be guanine (G), and not cysteine (C). Therefore, the codon at nucleotide residues 433-435 should be GAG, and not GAC. The deduced amino acid sequence of SEQ ID NO: 1 (which also appears in SEQ ID NO: 2) correctly sets forth the amino acid corresponding to the codon at nucleotide residues 433-435 as glutamine (Glu).

4 The correct nucleotide sequence that encodes SEQ ID NO: 1 could be readily sequenced by one of ordinary skill in the art as of 1996 from the source material of the amidinohydrolase gene derived from *Alcaligenes faecalis* TE3581, which has deposit accession number FERM P-14237. The above-identified application sets forth the source material at, for example, column 4, lines 7-10.

In re Appln. of Sogabe et al.
Application No. 10/807,228

5 I hereby declare that all statements made herein of my own knowledge are true, that all statements made on information and belief are believed to be true, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 05. 8. 18

Atsushi Sogabe
Atsushi Sogabe

PATENT
Attorney Docket No. 226749
Client Reference No. 20462-CPA-RI-Div

**SUPPLEMENTAL DECLARATION FOR REISSUE PATENT APPLICATION TO CORRECT
"ERRORS" STATEMENT (37 C.F.R. 1.175)**

Patent Application No. 10/807,228

Applicant: Sogabe et al.

Filed: March 23, 2004

TC/AU: 1652

Examiner: E. Slobodyansky

Docket No.: 226749-Tak (Client Reference No. 20462-CPA-RI-RCE-DIV)

Customer No.: 23460

COPY

As a below named inventors, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name. I believe I am an original, first, and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

CREATINE AMIDINOHYDROLASE, PRODUCTION THEREOF AND USE THEREOF

I previously executed a Combined Declaration and Power of Attorney, submitted March 23, 2004, with respect to the subject application. I hereby reaffirm the statements made in the previously executed Combined Declaration and Power of Attorney.

In the previously executed Combined Declaration and Power of Attorney, I stated that I believed the original patent, U.S. Patent No. 6,080,553, to be partially inoperative by reason of claiming less than the applicants had a right to claim. I continue to have such a belief for the reasons stated in the previously executed Combined Declaration and Power of Attorney and this Supplemental Declaration for Reissue Patent Application.

The original patent describes and claims a creatine amidinohydrolase, reagent, method of production thereof, and method of use thereof. The creatine amidinohydrolase is defined by physicochemical properties, such as action, optimum temperature, optimum pH, Km value, molecular weight, and isoelectric point. The isoelectric point (pI) for the creatine amidinohydrolase is recited in the specification and claims of the original patent as 3.5, but in fact was and is 4.5. Additionally, we have identified a typographical error in the nucleotide sequence of SEQ ID NO: 2. Specifically, nucleotide residue 435 of SEQ ID NO: 2 is recited as cysteine (C), but in fact was and is guanine (G). These errors and any other errors (i.e., all errors) were made without any deceptive intent on the part of the applicants and were discovered only relatively recently. To rectify these and other errors (such as the failure to claim a method of preparing a creatine amidinohydrolase as recited in the new claims added by way of the present reissue application), the specification and claims of the original patent have been amended by way of specification, claim, and abstract changes previously filed in the present reissue application as well as in U.S. Patent Application No. 09/940,941 (U.S. Patent No. RE38687), each of which is a divisional reissue of the original patent. Every error in the original patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this reissue application, arose without any deceptive intention on the part of the applicants.

I declare that all statements made herein of my own knowledge are true, that all statements made on information and belief are believed to be true, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

In re Appln. of Sogabe et al.
Application No. 10/807,228

Full name of sole or first inventor: ATSUSHI SOGABE

Inventor's signature

Atsushi Sogabe

Date

Sep. 20. 2005

Country of Citizenship: Japan

Residence: Tsuruga-shi, Fukui, Japan
(city/state or country)

Post Office Address: c/o Toyo Boseki Kabushiki Kaisha, Tsuruga Institute of Biotechnology,
10-24, Toyo-cho, Tsuruga-shi, Fukui 914 Japan
(complete mailing address)

Full name of second joint inventor, if any: TAKASHI HATTORI

Inventor's signature

TAKASHI HATTORI

Date

Sep. 27. 2005

Country of Citizenship: Japan

Residence: Tsuruga-shi, Fukui, Japan
(city/state or country)

Post Office Address: c/o Toyo Boseki Kabushiki Kaisha, Tsuruga Institute of Biotechnology,
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(complete mailing address)

Full name of third joint inventor, if any: YOSHIKAKI NISHIYA

Inventor's signature

Yoshikaki Nishiya

Date

Sep. 27. 2005

Country of Citizenship: Japan

Residence: Tsuruga-shi, Fukui, Japan
(city/state or country)

Post Office Address: c/o Toyo Boseki Kabushiki Kaisha, Tsuruga Institute of Biotechnology,
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(complete mailing address)

Full name of fourth joint inventor, if any: YOSHIHISA KAWAMURA

Inventor's signature

Yoshihisa Kawamura

Date

Sep. 22. 2005

Country of Citizenship: Japan

Residence: Tsuruga-shi, Fukui, Japan
(city/state or country)

Post Office Address: c/o Toyo Boseki Kabushiki Kaisha, Tsuruga Institute of Biotechnology,
10-24, Toyo-cho, Tsuruga-shi, Fukui 914 Japan
(complete mailing address)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE38,687 E
DATED : January 11, 2005
INVENTOR(S) : Sogabe et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Sequence Listing.

SEQ ID NO: 2, codon 433-435: "GAC" should read as --GAG--.

MAILING ADDRESS OF SENDER:

John Kilyk, Jr., Reg. No. 30,763
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780

PATENT NO. RE38,687

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UNITED STATES PATENT AND TRADEMARK OFFICE
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